the case. In view of the strength of the evidence, however, it is clear to me that the presence of Counsel for the defence at this stage of the case would have made no difference and that therefore the accused was in no way prejudiced.

With regard to sentence, the learned President in his grounds of decision said:—

"I felt that the absence of his Counsel might have meant that some relevant point in mitigation had not been put, so I sentenced him, in spite of the value of the property stolen, to what would otherwise be, in my opinion, a very inadequate sentence."

The learned Deputy Public Prosecutor pressed upon me that from any point of view and whether the offence was in respect of 12 or 26 sacks of tea dust a sentence of six months' imprisonment was, in view of the previous convictions of the accused, manifestly inadequate; and in spite of the eloquent plea put forward on behalf of the appellant by his Counsel I could not but agree with the submission of the Deputy Public Prosecutor.

It may be that the learned President went rather too far in assuming the possibility of mitigating circumstances, but he cannot in my opinion be blamed for this as the desertion of the appellant by Counsel at the trial placed the learned President as well as the appellant in a very difficult position.

I therefore felt it my duty to enhance the sentence, and taking into consideration the fact that the charge stood only as one in respect of 12 bags of tea dust I increased the sentence from one of six months' imprisonment to one of twelve months' imprisonment.

Order accordingly.

Solicitors for the appellant: *Presgrave & Matthews.*

IBRAHIM BIN DAUD v. PUBLIC PROSECUTOR

[A. Cr. J. (Hamid J.) April 19, 1955]

[Kuala Trengganu—Criminal Appeal No. 17 of 1954]

Criminal Procedure Code (Cap. 6), ss. 153(ii) and 163—Whether consolidated charges in contravention of—Penal Code s. 406—Criminal breach of trust—Lumping of various sums of money into one charge under s. 153(ii) Criminal Procedure Code.

The appellant was convicted for criminal breach of trust of $315 under s. 406 of the Penal Code. A list setting out the names of nine persons from whom the appellant received various sums totalling $315 was appended to the charge.

Held: as the appellant was charged for criminal breach of trust of money and not of articles and neither was he charged for cheating, the lumping of the various sums of money into one charge is good under s. 153(ii) of the Criminal Procedure Code.

Cases referred to:—

(1) *Abdur Rahim v. Emperor* A.I.R. 1931 Pat. 102.

(2) *Nga San Mya v. Emperor* A.I.R. 1933 Rang. 325.

(3) *Sheikh Hassan v. Public Prosecutor* (1940) M.L.J. 69.

(4) *Lim Yean Leong v. Public Prosecutor* (1940) M.L.J. 272.

MAGISTRATE'S CRIMINAL APPEAL.

Maidin bin Mohamed Ibrahim, Pleader, for the appellant.

M. Garton (Federal Counsel) for the respondent.

Cur. Adv. Vult.

Hamid J.: —The charge on which the appellant was tried and convicted was for criminal breach of trust of $315 under section 406 of the Penal Code. A list was appended to the charge setting out the names of nine persons from whom the appellant received various sums which total $315. The appeal is only on law and not on facts.

It has been urged that each of the nine transactions was complete by itself and that there were nine distinct offences for which there should have been nine distinct charges; and that to consolidate them into one charge contravenes section 163 of the Criminal Procedure Code. In support of that contention *Abdur Rahim v. Emperor*[1] and *Nga San Mya v. Emperor*[2] were cited. In the former case the charge was in relation to not less than eighty separate acts of cheating in which payments were not shown to have been made at one and the same time nor even at the same place. In the latter case the charge was criminal breach of trust for pawning six pairs of gold bangles from time to time. It was held in both cases that each act was complete in itself and there should be separate charges. This appeal is, however, different from those two cases in that the appellant was charged for criminal breach of trust of money and not of articles; nor was he charged for cheating. In *Sheikh Hassan v. Public Prosecutor*[3] and *Lim Yean Leong v. Public Prosecutor*[4], the Court of Appeal held that the lumping of various sums of money into one charge is good under the provisions of section 153 (ii) of the Criminal Procedure Code.

The other ground taken on appeal is that the evidence pointed to some other offences besides criminal breach of trust. The learned President has considered this point and I find that his conclusion that the offence was criminal breach of trust is well-reasoned.

The appeal is therefore dismissed, and the conviction and sentence upheld.

Appeal dismissed.